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II

Calendar No. 609

106TH CONGRESS
2D SESSION

S. 2753

To amend title XVIII of the Social Security Act to provide a prescription drug benefit for the aged and disabled under the medicare program, to enhance the preventive benefits covered under such program, and for other purposes.

IN THE SENATE OF THE UNITED STATES

JUNE 19, 2000

Mr. DASCHLE (for himself, Mr. MOYNIHAN, Mr. KENNEDY, Mr. AKAKA, Mr. BAUCUS, Mr. BIDEN, Mr. BINGAMAN, Mrs. BOXER, Mr. BRYAN, Mr. BYRD, Mr. CLELAND, Mr. DODD, Mr. DORGAN, Mr. DURBIN, Mrs. FEINSTEIN, Mr. GRAHAM, Mr. HARKIN, Mr. HOLLINGS, Mr. INOUE, Mr. JOHNSON, Mr. KERRY, Mr. LAUTENBERG, Mr. LEAHY, Mr. LEVIN, Mrs. LINCOLN, Ms. MIKULSKI, Mrs. MURRAY, Mr. REED, Mr. REID, Mr. ROBB, Mr. ROCKEFELLER, Mr. SARBANES, Mr. SCHUMER, and Mr. WELLSTONE) introduced the following bill; which was read twice and ordered placed on the calendar

A BILL

To amend title XVIII of the Social Security Act to provide a prescription drug benefit for the aged and disabled under the medicare program, to enhance the preventive benefits covered under such program, and for other purposes.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

1 **SECTION 1. SHORT TITLE; TABLE OF CONTENTS.**

2 (a) SHORT TITLE.—This Act may be cited as the
3 “Medicare Expansion for Needed Drugs (MEND) Act of
4 2000”.

5 (b) TABLE OF CONTENTS.—The table of contents for
6 this Act is as follows:

Sec. 1. Short title; table of contents.

Sec. 2. Findings.

TITLE I—PRESCRIPTION DRUG BENEFIT PROGRAM

Sec. 101. Prescription drug benefit program.

“PART D—PRESCRIPTION DRUG BENEFIT FOR THE AGED AND DISABLED

“Sec. 1860. Establishment of prescription drug benefit program for the
aged and disabled.

“Sec. 1860A. Scope of benefits.

“Sec. 1860B. Payment of benefits; benefit limits.

“Sec. 1860C. Eligibility and enrollment.

“Sec. 1860D. Premiums.

“Sec. 1860F. Prescription Drug Insurance Account.

“Sec. 1860G. Administration of benefits.

“Sec. 1860H. Employer incentive program for employment-based retiree
drug coverage.

“Sec. 1860I. Appropriations to cover Government contributions.

“Sec. 1860J. Prescription drug defined.”.

Sec. 102. Medicaid buy-in of medicare prescription drug coverage for certain
low-income individuals.

“Sec. 1860E. Special eligibility, enrollment, and copayment rules for low-
income individuals.”.

Sec. 103. Catastrophic prescription drug coverage benefit.

Sec. 104. Comprehensive immunosuppressive drug coverage for transplant pa-
tients.

Sec. 105. GAO study and biennial reports on competition and savings.

Sec. 106. MedPAC study and annual reports on the pharmaceutical market,
pharmacies, and beneficiary access.

TITLE II—ENHANCED MEDICARE PREVENTION PROGRAM

Sec. 201. MedPAC biennial report.

Sec. 202. National Institute on Aging study and report.

Sec. 203. Institute of Medicine 5-year medicare prevention benefit study and
report.

Sec. 204. Fast-track consideration of prevention benefit legislation.

7 **SEC. 2. FINDINGS.**

8 Congress makes the following findings:

1 (1) Prescription drug coverage was not a stand-
2 ard part of health insurance when the medicare pro-
3 gram under title XVIII of the Social Security Act
4 was enacted in 1965. Since 1965, however, drug cov-
5 erage has become a key component of most private
6 and public health insurance coverage, except for the
7 medicare program.

8 (2) At least $\frac{2}{3}$ of medicare beneficiaries have
9 unreliable, inadequate, or no drug coverage at all.

10 (3) Seniors who do not have drug coverage typi-
11 cally pay, at a minimum, 15 percent more than peo-
12 ple with coverage.

13 (4) Medicare beneficiaries at all income levels
14 lack prescription drug coverage, with more than $\frac{1}{2}$
15 of such beneficiaries having incomes greater than
16 150 percent of the poverty line.

17 (5) The number of private firms offering retiree
18 health coverage is declining.

19 (6) Medigap premiums for drugs are too expen-
20 sive for most beneficiaries and are highest for older
21 senior citizens, who need prescription drug coverage
22 the most and typically have the lowest incomes.

23 (7) The management of a medicare prescription
24 drug benefit should mirror the practices employed by

1 private entities in delivering prescription drugs. Dis-
 2 counts should be achieved through competition.

3 (8) All medicare beneficiaries should have ac-
 4 cess to a voluntary, reliable, affordable outpatient
 5 drug benefit as part of the medicare program that
 6 assists with the high cost of prescription drugs and
 7 protects them against excessive out-of-pocket costs.

8 (9) The addition of a medicare drug benefit
 9 should be consistent with an overall plan to
 10 strengthen and modernize the medicare program.

11 **TITLE I—PRESCRIPTION DRUG** 12 **BENEFIT PROGRAM**

13 **SEC. 101. PRESCRIPTION DRUG BENEFIT PROGRAM.**

14 (a) IN GENERAL.—Title XVIII of the Social Security
 15 Act (42 U.S.C. 1395 et seq.) is amended—

16 (1) by redesignating part D as part E; and

17 (2) by inserting after part C the following new
 18 part:

19 “PART D—PRESCRIPTION DRUG BENEFIT FOR THE
 20 AGED AND DISABLED

21 “ESTABLISHMENT OF PRESCRIPTION DRUG BENEFIT
 22 PROGRAM FOR THE AGED AND DISABLED

23 “SEC. 1860. (a) IN GENERAL.—There is established
 24 a voluntary insurance program to provide prescription
 25 drug benefits in accordance with the provisions of this part

1 for individuals who are aged or disabled or have end-stage
2 renal disease and who elect to enroll under such program,
3 to be financed from premium payments by enrollees to-
4 gether with contributions from funds appropriated by the
5 Federal Government.

6 “(b) NONINTERFERENCE.—In administering the pre-
7 scription drug benefit program established under this
8 part, the Secretary may not—

9 “(1) require a particular formulary or institute
10 a price structure for benefits;

11 “(2) interfere in any way with negotiations be-
12 tween private entities and drug manufacturers, or
13 wholesalers; or

14 “(3) otherwise interfere with the competitive
15 nature of providing a prescription drug benefit
16 through private entities.

17 “SCOPE OF BENEFITS

18 “SEC. 1860A. (a) IN GENERAL.—The benefits pro-
19 vided to an individual enrolled in the insurance program
20 under this part shall consist of—

21 “(1) payments made, in accordance with the
22 provisions of this part, for covered prescription
23 drugs (as specified in subsection (b)) dispensed by
24 any pharmacy participating in the program under
25 this part (and, in circumstances designated by the
26 private entity, by a nonparticipating pharmacy), in-

1 cluding any specifically named drug prescribed for
2 the individual by a qualified health care professional
3 regardless of whether the drug is included in a for-
4 mulary established by the private entity if such drug
5 is certified as medically necessary by such health
6 care professional, up to the benefit limits specified in
7 section 1860B; and

8 “(2) charging by pharmacies of the negotiated
9 price—

10 “(A) for all covered prescription drugs,
11 without regard to such benefit limit; and

12 “(B) established with respect to any drugs
13 or classes of drugs described in subparagraphs
14 (A) through (D) or (F) of section 1927(d)(2)
15 that are available to individuals receiving bene-
16 fits under this title.

17 “(b) COVERED PRESCRIPTION DRUGS.—

18 “(1) IN GENERAL.—Covered prescription drugs,
19 for purposes of this part, include all prescription
20 drugs (as defined in section 1860J(1)), including
21 smoking cessation agents, except as otherwise pro-
22 vided in this subsection.

23 “(2) EXCLUSIONS FROM COVERAGE.—Covered
24 prescription drugs shall not include drugs or classes
25 of drugs described in subparagraphs (A) through

1 (D) and (F) through (H) of section 1927(d)(2)
2 unless—

3 “(A) specifically provided otherwise by the
4 Secretary with respect to a drug in any of such
5 classes; or

6 “(B) a drug in any of such classes is cer-
7 tified to be medically necessary by a health care
8 professional.

9 “(3) EXCLUSION OF PRESCRIPTION DRUGS TO
10 THE EXTENT COVERED UNDER PART A OR B.—A
11 drug prescribed for an individual that would other-
12 wise be a covered prescription drug under this part
13 shall not be so considered to the extent that pay-
14 ment for such drug is available under part A or B,
15 including all injectable drugs and biologicals for
16 which payment was made or should have been made
17 by a carrier under section 1861(s)(2) (A) or (B) as
18 of the date of enactment of the Medicare Expansion
19 for Needed Drugs (MEND) Act of 2000. Drugs oth-
20 erwise covered under part A or B shall be covered
21 under this part to the extent that benefits under
22 part A or B are exhausted.

23 “PAYMENT OF BENEFITS; BENEFIT LIMITS

24 “SEC. 1860B. (a) PAYMENT OF BENEFITS.—There
25 shall be paid from the Prescription Drug Insurance Ac-
26 count within the Supplementary Medical Insurance Trust

1 Fund, in the case of each individual who is enrolled in
2 the insurance program under this part and who purchases
3 covered prescription drugs in a calendar year, an amount,
4 not to exceed 50 percent of the applicable limit under sub-
5 section (b), equal to 50 percent of the negotiated price
6 for each such covered prescription drug or such higher
7 percentage as is proposed by a private entity pursuant to
8 section 1860G(d)(7), if the Secretary finds that such per-
9 centage will not increase aggregate costs to the Prescrip-
10 tion Drug Insurance Account.

11 “(b) BENEFIT LIMITS.—

12 “(1) CALENDAR YEARS 2002 THROUGH 2009.—

13 For purposes of subsection (a), the limit under this
14 subsection is—

15 “(A) for each of calendar years 2002,
16 2003, and 2004, \$2,000;

17 “(B) for each of calendar years 2005,
18 2006, and 2007, \$3,000;

19 “(C) for calendar year 2008, \$4,000; and

20 “(D) for calendar year 2009, \$5,000.

21 “(2) CALENDAR YEAR 2010 AND SUBSEQUENT
22 YEARS.—For purposes of subsection (a), the limit
23 under this subsection for calendar year 2010 and
24 each subsequent calendar year is equal to the great-
25 er of—

“(A) the limit for the preceding year adjusted by the percentage change in the Consumer Price Index for all urban consumers (U.S. urban average) for the 12-month period ending with June of the preceding year; or

“(B) the limit for the preceding year.

“ELIGIBILITY AND ENROLLMENT

“SEC. 1860C. (a) ELIGIBILITY.—Every individual who, in or after 2002, is entitled to hospital insurance benefits under part A or enrolled in the medical insurance program under part B is eligible to enroll, in accordance with the provisions of this section, in the insurance program under this part, during an enrollment period prescribed in or under this section, in such manner and form as may be prescribed by regulations.

“(b) ENROLLMENT.—

“(1) IN GENERAL.—Each individual who satisfies subsection (a) shall be enrolled (or eligible to enroll) in the program under this part in accordance with the provisions of section 1837, as if that section applied to this part, except as otherwise explicitly provided in this part.

“(2) SINGLE ENROLLMENT PERIOD.—Except as provided in section 1837(i) (as such section applies to this part), 1860E, or 1860H, or as otherwise explicitly provided, no individual shall be entitled to

1 enroll in the program under this part at any time
2 after the initial enrollment period.

3 “(3) SPECIAL ENROLLMENT PERIOD FOR
4 2002.—

5 “(A) IN GENERAL.—An individual who
6 first satisfies subsection (a) in 2002 may, at
7 any time on or before December 31, 2002—

8 “(i) enroll in the program under this
9 part; and

10 “(ii) enroll or reenroll in such pro-
11 gram after having previously declined or
12 terminated enrollment in such program.

13 “(B) EFFECTIVE DATE OF COVERAGE.—
14 An individual who enrolls under the program
15 under this part pursuant to subparagraph (A)
16 shall be entitled to benefits under this part be-
17 ginning on the first day of the month following
18 the month in which such enrollment occurs.

19 “(c) PERIOD OF COVERAGE.—

20 “(1) IN GENERAL.—Except as otherwise pro-
21 vided in this part, an individual’s coverage under the
22 program under this part shall be effective for the pe-
23 riod provided in section 1838, as if that section ap-
24 plied to the program under this part.

1 “(2) PART D COVERAGE TERMINATED BY TER-
2 MINATION OF COVERAGE UNDER PARTS A AND B.—

3 In addition to the causes of termination specified in
4 section 1838, an individual’s coverage under this
5 part shall be terminated when the individual retains
6 coverage under neither the program under part A
7 nor the program under part B, effective on the effec-
8 tive date of termination of coverage under part A or
9 (if later) under part B.

10 “PREMIUMS

11 “SEC. 1860D. (a) ANNUAL ESTABLISHMENT OF
12 MONTHLY PREMIUM RATES.—

13 “(1) IN GENERAL.—The Secretary shall, during
14 September of 2001 and of each succeeding year, de-
15 termine and promulgate a monthly premium rate for
16 the succeeding year in accordance with the provi-
17 sions of this subsection.

18 “(2) ACTUARIAL DETERMINATIONS.—

19 “(A) DETERMINATION OF ANNUAL BEN-
20 EFIT COSTS.—The Secretary shall estimate an-
21 nually for the succeeding year the amount equal
22 to the total of the benefits that will be payable
23 from the Prescription Drug Insurance Account
24 for prescription drugs dispensed in such cal-
25 endar year with respect to enrollees in the pro-
26 gram under this part. In calculating such

1 amount, the Secretary shall include an appro-
2 priate amount for a contingency margin.

3 “(B) DETERMINATION OF MONTHLY PRE-
4 MIUM RATES.—

5 “(i) IN GENERAL.—The Secretary
6 shall determine the monthly premium rate
7 with respect to such enrollees for such suc-
8 ceeding year, which shall be $\frac{1}{12}$ of the
9 share specified in clause (ii) of the amount
10 determined under subparagraph (A), di-
11 vided by the total number of such enroll-
12 ees, and rounded (if such rate is not a
13 multiple of 10 cents) to the nearest mul-
14 tiple of 10 cents.

15 “(ii) ENROLLEE AND EMPLOYER PER-
16 CENTAGE SHARES.—The share specified in
17 this clause, for purposes of clause (i), shall
18 be—

19 “(I) one-half, in the case of pre-
20 miums paid by an individual enrolled
21 in the program under this part; and

22 “(II) two-thirds, in the case of
23 premiums paid for such an individual
24 by a former employer (as defined in
25 section 1860H(f)(2)).

1 “(3) PUBLICATION OF ASSUMPTIONS.—The
2 Secretary shall publish, together with the promulga-
3 tion of the monthly premium rates for the suc-
4 ceeding year, a statement setting forth the actuarial
5 assumptions and bases employed in arriving at the
6 amounts and rates determined under paragraphs (1)
7 and (2).

8 “(b) PAYMENT OF PREMIUMS.—

9 “(1) PAYMENTS BY DEDUCTION FROM SOCIAL
10 SECURITY, RAILROAD RETIREMENT BENEFITS, OR
11 BENEFITS ADMINISTERED BY OPM.—

12 “(A) DEDUCTION FROM BENEFITS.—In
13 the case of an individual who is entitled to or
14 receiving benefits as described in subsection (a),
15 (b), or (d) of section 1840, premiums payable
16 under this part shall be collected by deduction
17 from such benefits at the same time and in the
18 same manner as premiums payable under part
19 B are collected pursuant to section 1840.

20 “(B) TRANSFERS TO PRESCRIPTION DRUG
21 INSURANCE ACCOUNT.—The Secretary of the
22 Treasury shall, from time to time, but not less
23 often than quarterly, transfer premiums col-
24 lected pursuant to subparagraph (A) to the
25 Prescription Drug Insurance Account from the

1 appropriate funds and accounts described in
2 subsections (a)(2), (b)(2), and (d)(2) of section
3 1840, on the basis of the certifications de-
4 scribed in such subsections. The amounts of
5 such transfers shall be appropriately adjusted
6 to the extent that prior transfers were too great
7 or too small.

8 “(2) DIRECT PAYMENTS TO SECRETARY.—

9 “(A) ADDITIONAL PAYMENT BY EN-
10 ROLLEE.—An individual to whom paragraph
11 (1) applies (other than an individual receiving
12 benefits as described in section 1840(d)) and
13 who estimates that the amount that will be
14 available for deduction under such paragraph
15 for any premium payment period will be less
16 than the amount of the monthly premiums for
17 such period may (under regulations) pay to the
18 Secretary the estimated balance, or such great-
19 er portion of the monthly premium as the indi-
20 vidual chooses.

21 “(B) PAYMENTS BY OTHER ENROLLEES.—
22 An individual enrolled in the insurance program
23 under this part with respect to whom none of
24 the preceding provisions of this subsection ap-
25 plies (or to whom section 1840(c) applies) shall

1 pay premiums to the Secretary at such times
2 and in such manner as the Secretary shall by
3 regulations prescribe.

4 “(C) DEPOSIT OF PREMIUMS.—Amounts
5 paid to the Secretary under this paragraph
6 shall be deposited in the Treasury to the credit
7 of the Prescription Drug Insurance Account in
8 the Supplementary Medical Insurance Trust
9 Fund.

10 “(c) CERTAIN LOW-INCOME INDIVIDUALS.—For
11 rules concerning premiums for certain low-income individ-
12 uals, see section 1860E.

13 “PRESCRIPTION DRUG INSURANCE ACCOUNT

14 “SEC. 1860F. (a) ESTABLISHMENT.—There is cre-
15 ated within the Federal Supplemental Medical Insurance
16 Trust Fund established by section 1841 an account to be
17 known as the ‘Prescription Drug Insurance Account’ (in
18 this section referred to as the ‘Account’).

19 “(b) AMOUNTS IN ACCOUNT.—

20 “(1) IN GENERAL.—The Account shall consist
21 of—

22 “(A) such amounts as may be deposited in,
23 or appropriated to, such fund as provided in
24 this part; and

25 “(B) such gifts and bequests as may be
26 made as provided in section 201(i)(1).

1 “(2) SEPARATION OF FUNDS.—Funds provided
2 under this part to the Account shall be kept sepa-
3 rate from all other funds within the Federal Supple-
4 mental Medical Insurance Trust Fund.

5 “(c) PAYMENTS FROM ACCOUNT.—The Managing
6 Trustee shall pay from time to time from the Account such
7 amounts as the Secretary certifies are necessary to make
8 the payments provided for by this part, and the payments
9 with respect to administrative expenses in accordance with
10 section 201(g).

11 “ADMINISTRATION OF BENEFITS

12 “SEC. 1860G. (a) IN GENERAL.—The Secretary shall
13 provide for administration of the benefits under this part
14 through a contract with a private entity designated in ac-
15 cordance with subsection (c), for enrolled individuals resid-
16 ing in each service area designated pursuant to subsection
17 (b) (other than such individuals enrolled in a
18 Medicare+Choice program under part C), in accordance
19 with the provisions of this section.

20 “(b) DESIGNATION OF SERVICE AREAS.—

21 “(1) IN GENERAL.—The Secretary shall divide
22 the total geographic area served by the programs
23 under this title into at least 15 service areas for pur-
24 poses of administration of benefits under this part.

25 “(2) CONSIDERATIONS.—In determining or ad-
26 justing the number and boundaries of service areas

1 under this subsection, the Secretary shall seek to en-
2 sure that—

3 “(A) there is a reasonable level of competi-
4 tion among entities eligible to contract to ad-
5 minister the benefit program under this section
6 for each area;

7 “(B) the designation of areas is consistent
8 with the goal of securing contracts under this
9 section with respect to the maximum feasible
10 number of areas so designated; and

11 “(C) the designation of areas will foster
12 the existence of a sufficient number of entities
13 that are eligible and willing to administer the
14 benefits under this part.

15 “(c) DESIGNATION OF PRIVATE ENTITY.—

16 “(1) AWARD AND DURATION OF CONTRACT.—

17 “(A) COMPETITIVE AWARD.—Each con-
18 tract for a service area shall be awarded com-
19 petitively in accordance with section 5 of title
20 41, United States Code, for a period (subject to
21 subparagraph (B)) of not less than 2 nor more
22 than 5 years.

23 “(B) REVIEW.—A contract for a service
24 area shall be subject to an evaluation after 2
25 years.

1 “(2) ELIGIBLE PRIVATE ENTITIES.—A private
2 entity eligible for consideration as a private entity
3 responsible for administering the prescription drug
4 benefit program under this part in a service area
5 shall meet at least the following criteria:

6 “(A) TYPE.—The private entity shall be
7 capable of administering a prescription drug
8 benefit program, and may be a prescription
9 drug vendor, wholesale and retail pharmacist
10 delivery system, health care provider or insurer,
11 any other type of entity as the Secretary may
12 specify, or a consortium of such entities.

13 “(B) PERFORMANCE CAPABILITY.—The
14 entity shall have sufficient expertise, personnel,
15 and resources to perform effectively the benefit
16 administration functions for such area.

17 “(C) FINANCIAL INTEGRITY.—The entity
18 and its officers, directors, agents, and man-
19 aging employees shall have a satisfactory record
20 of professional competence and professional and
21 financial integrity, and the entity shall have
22 adequate financial resources to perform services
23 under the contract without risk of insolvency.

24 “(3) PROPOSAL REQUIREMENTS.—

1 “(A) IN GENERAL.—An entity’s proposal
2 for award or renewal of a contract under this
3 section shall include such material and informa-
4 tion as the Secretary may require.

5 “(B) SPECIFIC INFORMATION.—A proposal
6 described in subparagraph (A) shall include a
7 detailed description of—

8 “(i) the schedule of negotiated prices
9 that will be charged to enrollees;

10 “(ii) how the entity will deter medical
11 errors that are related to prescription
12 drugs; and

13 “(iii) proposed contracts with local
14 pharmacy providers designed to ensure ac-
15 cess, including compensation for local
16 pharmacists’ services.

17 “(4) EXCEPTIONS TO CONFLICT OF INTEREST
18 RULES.—In awarding contracts under this sub-
19 section, the Secretary may waive conflict of interest
20 rules generally applicable to Federal acquisitions
21 (subject to such safeguards as the Secretary may
22 find necessary to impose) in circumstances where the
23 Secretary finds that such waiver—

1 “(A) is not inconsistent with the purposes
2 of the programs under this title and the best in-
3 terests of enrolled individuals; and

4 “(B) will permit a sufficient level of com-
5 petition for such contracts, promote efficiency
6 of benefits administration, or otherwise serve
7 the objectives of the program under this part.

8 “(5) MAXIMIZING COMPETITION.—In awarding
9 contracts under this section, the Secretary shall give
10 consideration to the need to maintain sufficient
11 numbers of entities eligible and willing to administer
12 benefits under this part to ensure vigorous competi-
13 tion for such contracts.

14 “(d) FUNCTIONS OF PRIVATE ENTITY.—The private
15 entity for a service area shall (or in the case of the func-
16 tion described in paragraph (7), may) perform the fol-
17 lowing functions:

18 “(1) PARTICIPATION AGREEMENTS, PRICES,
19 AND FEES.—

20 “(A) PRIVATELY NEGOTIATED PRICES.—

21 Each private entity shall establish, through ne-
22 gotiations with drug manufacturers and whole-
23 salers and pharmacies, a schedule of prices for
24 covered prescription drugs.

1 “(B) AGREEMENTS WITH PHARMACIES.—

2 Each private entity shall enter into participa-
3 tion agreements under subsection (e) with phar-
4 macies, that include terms that—

5 “(i) secure the participation of suffi-
6 cient numbers of pharmacies to ensure
7 convenient access (including adequate
8 emergency access); and

9 “(ii) permit the participation of any
10 pharmacy in the service area that meets
11 the participation requirements described in
12 subsection (e).

13 “(C) LISTS OF PRICES AND PARTICIPATING

14 PHARMACIES.—Each private entity shall ensure
15 that the negotiated prices established under
16 subparagraph (A) and the list of pharmacies
17 with agreements under subsection (e) are regu-
18 larly updated and readily available in the serv-
19 ice area to health care professionals authorized
20 to prescribe drugs, participating pharmacies,
21 and enrolled individuals.

22 “(2) PAYMENT AND COORDINATION OF BENE-
23 FITS.—

24 “(A) PAYMENT.—Each private entity
25 shall—

1 “(i) administer claims for payment of
2 benefits under this part;

3 “(ii) determine amounts of benefit
4 payments to be made; and

5 “(iii) receive, disburse, and account
6 for funds used in making such payments,
7 including through the activities specified in
8 the provisions of this paragraph.

9 “(B) COORDINATION.—Each private entity
10 shall coordinate with the Secretary, other pri-
11 vate entities, pharmacies, and other relevant en-
12 tities as necessary to ensure appropriate coordi-
13 nation of benefits with respect to enrolled indi-
14 viduals, including coordination of access to and
15 payment for covered prescription drugs accord-
16 ing to an individual’s in-service area plan provi-
17 sions, when such individual is traveling outside
18 the home service area, and under such other
19 circumstances as the Secretary may specify.

20 “(C) EXPLANATION OF BENEFITS.—Each
21 private entity shall furnish to enrolled individ-
22 uals an explanation of benefits in accordance
23 with section 1806(a), and a notice of the bal-
24 ance of benefits remaining for the current year,
25 whenever prescription drug benefits are pro-

1 vided under this part (except that such notice
2 need not be provided more often than monthly).

3 “(3) COST AND UTILIZATION MANAGEMENT;
4 QUALITY ASSURANCE.—Each private entity shall
5 have in place effective cost and utilization manage-
6 ment, quality assurance measures, and systems to
7 reduce medical errors, including at least the fol-
8 lowing, together with such additional measures as
9 the Secretary may specify:

10 “(A) DRUG UTILIZATION REVIEW.—A drug
11 utilization review program conforming to the
12 standards provided in section 1927(g)(2) (with
13 such modifications as the Secretary finds ap-
14 propriate).

15 “(B) FRAUD AND ABUSE CONTROL.—Ac-
16 tivities to control fraud, abuse, and waste.

17 “(4) EDUCATION AND INFORMATION ACTIVI-
18 TIES.—Each private entity shall have in place mech-
19 anisms for disseminating educational and informa-
20 tional materials to enrolled individuals and health
21 care providers designed to encourage effective and
22 cost-effective use of prescription drug benefits and to
23 ensure that enrolled individuals understand their
24 rights and obligations under the program.

25 “(5) BENEFICIARY PROTECTIONS.—

1 “(A) CONFIDENTIALITY OF HEALTH IN-
2 FORMATION.—Each private entity shall have in
3 effect systems to safeguard the confidentiality
4 of health care information on enrolled individ-
5 uals, which comply with section 1106 and with
6 section 552a of title 5, United States Code, and
7 meet such additional standards as the Secretary
8 may prescribe.

9 “(B) GRIEVANCE AND APPEAL PROCE-
10 DURES.—Each private entity have in place such
11 procedures as the Secretary may specify for
12 hearing and resolving grievances and appeals
13 brought by enrolled individuals against the pri-
14 vate entity or a pharmacy concerning benefits
15 under this part, which shall, to the extent the
16 Secretary finds necessary and appropriate, in-
17 clude procedures equivalent to those specified in
18 subsections (f) and (g) of section 1852.

19 “(6) RECORDS, REPORTS, AND AUDITS OF PRI-
20 VATE ENTITIES.—

21 “(A) RECORDS AND AUDITS.—Each pri-
22 vate entity shall maintain adequate records, and
23 afford the Secretary access to such records (in-
24 cluding for audit purposes).

1 “(B) REPORTS.—Each private entity shall
2 make such reports and submissions of financial
3 and utilization data as the Secretary may re-
4 quire taking into account standard commercial
5 practices.

6 “(7) PROPOSAL FOR ALTERNATIVE COINSUR-
7 ANCE AMOUNT.—

8 “(A) SUBMISSION.—Each private entity
9 may submit a proposal for increased Govern-
10 ment cost-sharing for generic prescription
11 drugs, prescription drugs on the private entity’s
12 formulary, or prescription drugs obtained
13 through mail order pharmacies.

14 “(B) CONTENTS.—The proposal submitted
15 under subparagraph (A) shall contain evidence
16 that such increased cost-sharing would not re-
17 sult in an increase in aggregate costs to the Ac-
18 count, including an analysis of differences in
19 projected drug utilization patterns by bene-
20 ficiaries whose cost-sharing would be reduced
21 under the proposal and those making the cost-
22 sharing payments that would otherwise apply.

23 “(8) OTHER REQUIREMENTS.—Each private en-
24 tity shall meet such other requirements as the Sec-
25 retary may specify.

1 “(e) PHARMACY PARTICIPATION AGREEMENTS.—

2 “(1) IN GENERAL.—A pharmacy that meets the
3 requirements of this subsection shall be eligible to
4 enter an agreement with a private entity to furnish
5 covered prescription drugs and pharmacists’ services
6 to enrolled individuals residing in the service area.

7 “(2) TERMS OF AGREEMENT.—An agreement
8 under this subsection shall include the following
9 terms and requirements:

10 “(A) LICENSING.—The pharmacy and
11 pharmacists shall meet (and throughout the
12 contract period will continue to meet) all appli-
13 cable State and local licensing requirements.

14 “(B) LIMITATION ON CHARGES.—Phar-
15 macies participating under this part shall not
16 charge an enrolled individual more than the ne-
17 gotiated price for an individual drug as estab-
18 lished under subsection (d)(1), regardless of
19 whether such individual has attained the benefit
20 limit under section 1860B(b), and shall not
21 charge an enrolled individual more than the in-
22 dividual’s share of the negotiated price as deter-
23 mined under the provisions of this part.

1 “(C) PERFORMANCE STANDARDS.—The
2 pharmacy shall comply with performance stand-
3 ards relating to—

4 “(i) measures for quality assurance,
5 reduction of medical errors, and participa-
6 tion in the drug utilization review program
7 described in subsection (d)(3)(A);

8 “(ii) systems to ensure compliance
9 with the confidentiality standards applica-
10 ble under subsection (d)(5)(A); and

11 “(iii) other requirements as the Sec-
12 retary may impose to ensure integrity, effi-
13 ciency, and the quality of the program.

14 “(f) FLEXIBILITY IN ASSIGNING WORKLOAD AMONG
15 PRIVATE ENTITIES.—During the period after the Sec-
16 retary has given notice of intent to terminate a contract
17 with a private entity, the Secretary may transfer respon-
18 sibilities of the private entity under such contract to an-
19 other private entity.

20 “(g) SPECIAL ATTENTION TO RURAL AND HARD-TO-
21 SERVE AREAS.—

22 “(1) IN GENERAL.—The Secretary shall ensure
23 that all beneficiaries have access to the full range of
24 pharmaceuticals under this part, and shall give spe-
25 cial attention to access, pharmacist counseling, and

1 delivery in rural and hard-to-serve areas (as the Sec-
2 retary may define by regulation).

3 “(2) SPECIAL ATTENTION DEFINED.—For pur-
4 poses of paragraph (1), the term ‘special attention’
5 may include bonus payments to retail pharmacists in
6 rural areas, extra payments to the private entity for
7 the cost of rapid delivery of pharmaceuticals, and
8 any other actions the Secretary determines are nec-
9 essary to ensure full access to rural and hard-to-
10 serve beneficiaries.

11 “(3) GAO REPORT.—Not later than 2 years
12 after the implementation of this part the Comp-
13 troller General of the United States shall submit to
14 Congress a report on the access of medicare bene-
15 ficiaries to pharmaceuticals and pharmacists’ serv-
16 ices in rural and hard-to-serve areas under this part
17 together with any recommendations of the Comp-
18 troller General regarding any additional steps the
19 Secretary may need to take to ensure the access of
20 medicare beneficiaries to pharmaceuticals and phar-
21 macists’ services in such areas under this part.

22 “(h) INCENTIVES FOR COST AND UTILIZATION MAN-
23 AGEMENT AND QUALITY IMPROVEMENT.—The Secretary
24 is authorized to include in a contract awarded under sub-
25 section (c) such incentives for cost and utilization manage-

1 ment and quality improvement as the Secretary may deem
2 appropriate, including—

3 “(1) bonus and penalty incentives to encourage
4 administrative efficiency;

5 “(2) incentives under which private entities
6 share in any benefit savings achieved;

7 “(3) risk-sharing arrangements related to ben-
8 efit payments; and

9 “(4) any other incentive that the Secretary
10 deems appropriate and likely to be effective in man-
11 aging costs or utilization.

12 “EMPLOYER INCENTIVE PROGRAM FOR EMPLOYMENT-
13 BASED RETIREE DRUG COVERAGE

14 “SEC. 1860H. (a) PROGRAM AUTHORITY.—The Sec-
15 retary is authorized to develop and implement a program
16 under this section called the ‘Employer Incentive Pro-
17 gram’ that encourages employers and other sponsors of
18 employment-based health care coverage to provide ade-
19 quate prescription drug benefits to retired individuals and
20 to maintain such existing benefit programs, by sub-
21 sidizing, in part, the sponsor’s cost of providing coverage
22 under qualifying plans.

23 “(b) SPONSOR REQUIREMENTS.—In order to be eligi-
24 ble to receive an incentive payment under this section with
25 respect to coverage of an individual under a qualified re-

1 retiree prescription drug plan (as defined in subsection
2 (f)(3)), a sponsor shall meet the following requirements:

3 “(1) ASSURANCES.—The sponsor shall—

4 “(A) annually attest, and provide such as-
5 surances as the Secretary may require, that the
6 coverage offered by the sponsor is a qualified
7 retiree prescription drug plan, and will remain
8 such a plan for the duration of the sponsor’s
9 participation in the program under this section;
10 and

11 “(B) guarantee that it will give notice to
12 the Secretary and covered retirees—

13 “(i) at least 120 days before termi-
14 nating its plan; and

15 “(ii) immediately upon determining
16 that the actuarial value of the prescription
17 drug benefit under the plan falls below the
18 actuarial value of the insurance benefit
19 under this part.

20 “(2) OTHER REQUIREMENTS.—The sponsor
21 shall provide such information, and comply with
22 such requirements, including information require-
23 ments to ensure the integrity of the program, as the
24 Secretary may find necessary to administer the pro-
25 gram under this section.

1 “(c) INCENTIVE PAYMENT.—

2 “(1) IN GENERAL.—A sponsor that meets the
3 requirements of subsection (b) with respect to a
4 quarter in a calendar year shall have payment made
5 by the Secretary on a quarterly basis (to the sponsor
6 or, at the sponsor’s direction, to the appropriate em-
7 ployment-based health plan) of an incentive pay-
8 ment, in the amount determined as described in
9 paragraph (2), for each retired individual (or
10 spouse) who—

11 “(A) was covered under the sponsor’s
12 qualified retiree prescription drug plan during
13 such quarter; and

14 “(B) was eligible for but was not enrolled
15 in the insurance program under this part.

16 “(2) AMOUNT OF INCENTIVE.—The payment
17 under this section with respect to each individual de-
18 scribed in paragraph (1) for a month shall be equal
19 to $\frac{2}{3}$ of the monthly premium amount payable by an
20 enrolled individual, as set for the calendar year pur-
21 suant to section 1860D(a)(2).

22 “(3) PAYMENT DATE.—The incentive under
23 this section with respect to a calendar quarter shall
24 be payable as of the end of the next succeeding cal-
25 endar quarter.

1 “(d) CIVIL MONEY PENALTIES.—A sponsor, health
2 plan, or other entity that the Secretary determines has,
3 directly or through its agent, provided information in con-
4 nection with a request for an incentive payment under this
5 section that the entity knew or should have known to be
6 false shall be subject to a civil monetary penalty in an
7 amount up to 3 times the total incentive amounts under
8 subsection (c) that were paid (or would have been payable)
9 on the basis of such information.

10 “(e) PART D ENROLLMENT FOR CERTAIN INDIVID-
11 UALS COVERED BY EMPLOYMENT-BASED RETIREE
12 HEALTH COVERAGE PLANS.—

13 “(1) ELIGIBLE INDIVIDUALS.—An individual
14 shall be given the opportunity to enroll in the pro-
15 gram under this part during the period specified in
16 paragraph (2) if—

17 “(A) the individual declined enrollment in
18 the program under this part at the time the in-
19 dividual first satisfied section 1860C(a);

20 “(B) at that time, the individual was cov-
21 ered under a qualified retiree prescription drug
22 plan for which an incentive payment was paid
23 under this section; and

24 “(C)(i) the sponsor subsequently ceased to
25 offer such plan; or

1 “(ii) the value of prescription drug cov-
 2 erage under such plan became less than the
 3 value of the coverage under the program under
 4 this part.

5 “(2) SPECIAL ENROLLMENT PERIOD.—An indi-
 6 vidual described in paragraph (1) shall be eligible to
 7 enroll in the program under this part during the 6-
 8 month period beginning on the first day of the
 9 month in which—

10 “(A) the individual receives a notice that
 11 coverage under such plan has terminated (in
 12 the circumstance described in paragraph
 13 (1)(C)(i)) or notice that a claim has been de-
 14 nied because of such a termination; or

15 “(B) the individual received notice of the
 16 change in benefits (in the circumstance de-
 17 scribed in paragraph (1)(C)(ii)).

18 “(f) DEFINITIONS.—In this section:

19 “(1) EMPLOYMENT-BASED RETIREE HEALTH
 20 COVERAGE.—The term ‘employment-based retiree
 21 health coverage’ means health insurance or other
 22 coverage of health care costs for retired individuals
 23 (or for such individuals and their spouses and de-
 24 pendents) based on their status as former employees
 25 or labor union members.

1 “(2) EMPLOYER.—The term ‘employer’ has the
2 meaning given to such term by section 3(5) of the
3 Employee Retirement Income Security Act of 1974
4 (except that such term shall include only employers
5 of 2 or more employees).

6 “(3) QUALIFIED RETIREE PRESCRIPTION DRUG
7 PLAN.—The term ‘qualified retiree prescription drug
8 plan’ means health insurance coverage included in
9 employment-based retiree health coverage that—

10 “(A) provides coverage of the cost of pre-
11 scription drugs whose actuarial value to each
12 retired beneficiary equals or exceeds the actu-
13 arial value of the benefits provided to an indi-
14 vidual enrolled in the program under this part;
15 and

16 “(B) does not deny, limit, or condition the
17 coverage or provision of prescription drug bene-
18 fits for retired individuals based on age or any
19 health status-related factor described in section
20 2702(a)(1) of the Public Health Service Act.

21 “(4) SPONSOR.—The term ‘sponsor’ has the
22 meaning given the term ‘plan sponsor’ by section
23 3(16)(B) of the Employee Retirement Income Secu-
24 rity Act of 1974.

1 “APPROPRIATIONS TO COVER GOVERNMENT

2 CONTRIBUTIONS

3 “SEC. 1860I. (a) IN GENERAL.—There are author-
4 ized to be appropriated from time to time, out of any mon-
5 eys in the Treasury not otherwise appropriated, to the
6 Prescription Drug Insurance Account, a Government con-
7 tribution equal to—

8 “(1) the aggregate premiums payable for a
9 month pursuant to section 1860D(a)(2) by individ-
10 uals enrolled in the program under this part; plus

11 “(2) one-half the aggregate premiums payable
12 for a month pursuant to such section for such indi-
13 viduals by former employers.

“(b) APPROPRIATIONS TO COVER INCENTIVES FOR
EMPLOYMENT-BASED RETIREE DRUG COVERAGE.—
There are authorized to be appropriated to the Prescrip-
tion Drug Insurance Account from time to time, out of
any moneys in the Treasury not otherwise appropriated
such sums as may be necessary for payment of incentive
payments under section 1860H(c).

21 “PRESCRIPTION DRUG DEFINED

22 “SEC. 1860J. As used in this part, the term ‘pre-
23 scription drug’ means—

24 “(1) a drug that may be dispensed only upon
25 a prescription, and that is described in subpara-

1 graph (A)(i), (A)(ii), or (B) of section 1927(k)(2);
2 and

3 “(2) insulin certified under section 506 of the
4 Federal Food, Drug, and Cosmetic Act, and needles,
5 syringes, and disposable pumps for the administra-
6 tion of such insulin.”.

7 (b) STUDY OF ANNUAL OPEN ENROLLMENT.—

8 (1) STUDY.—During 2002 and 2003, the Sec-
9 retary shall conduct a study on the feasibility and
10 advisability of establishing an annual open enroll-
11 ment period for the program under part D (as added
12 by subsection (a)). Such study shall reflect data re-
13 ported by private entities administering benefits
14 under such part and shall include—

15 (A) a review of the costs, effectiveness, and
16 administrative feasibility of an annual open en-
17 rollment period for beneficiaries who—

18 (i) previously declined enrollment; or
19 (ii) who previously disenrolled and de-
20 sire to reenroll;

21 (B) an evaluation of a premium penalty for
22 late enrollment based on actuarially determined
23 costs to the program of late enrollment; and

24 (C) a projection of the costs if open enroll-
25 ment was allowed without a penalty.

1 (2) REPORT.—The Secretary shall prepare a re-
2 port setting forth the outcome of the study and may
3 include in the report a recommendation as to wheth-
4 er an annual open enrollment period should be im-
5 plemented under such part.

6 (c) CONFORMING AMENDMENTS.—

7 (1) AMENDMENTS TO FEDERAL SUPPLE-
8 MENTARY HEALTH INSURANCE TRUST FUND.—Sec-
9 tion 1841 of the Social Security Act (42 U.S.C.
10 1395t) is amended—

11 (A) in the last sentence of subsection (a)—

12 (i) by striking “and” after “section
13 201(i)(1)”;

14 (ii) by inserting before the period the
15 following: “, and such amounts as may be
16 deposited in, or appropriated to, the Pre-
17 scription Drug Insurance Account estab-
18 lished by section 1860F”;

19 (B) in subsection (g), by inserting after
20 “by this part,” the following: “the payments
21 provided for under part D (in which case the
22 payments shall come from the Prescription
23 Drug Insurance Account in the Supplementary
24 Medical Insurance Trust Fund),”;

1 (C) in the first sentence of subsection (h),
 2 by inserting before the period the following:
 3 “and section 1860D(b)(4) (in which case the
 4 payments shall come from the Prescription
 5 Drug Insurance Account in the Supplementary
 6 Medical Insurance Trust Fund)”; and

7 (D) in the first sentence of subsection
 8 (i)—

9 (i) by striking “and” after “section
 10 1840(b)(1)”; and

11 (ii) by inserting before the period the
 12 following: “, section 1860D(b)(2) (in which
 13 case the payments shall come from the
 14 Prescription Drug Insurance Account in
 15 the Supplementary Medical Insurance
 16 Trust Fund)”.
 17

18 (2) PRESCRIPTION DRUG OPTION UNDER
 19 MEDICARE+CHOICE PLANS.—

20 (A) ELIGIBILITY, ELECTION, AND ENROLL-
 21 MENT.—Section 1851 of the Social Security Act
 22 (42 U.S.C. 1395w-21) is amended—

23 (i) in subsection (a)(1)(A), by striking
 24 “parts A and B” inserting “parts A, B,
 and D”; and

1 (ii) in subsection (i)(1), by striking
2 “parts A and B” and inserting “parts A,
3 B, and D”.

4 (B) VOLUNTARY BENEFICIARY ENROLL-
5 MENT FOR DRUG COVERAGE.—Section
6 1852(a)(1)(A) of such Act (42 U.S.C. 1395w-
7 22(a)(1)(A)) is amended by inserting “(and
8 under part D to individuals also enrolled under
9 that part)” after “parts A and B”.

10 (C) ACCESS TO SERVICES.—Section
11 1852(d)(1) of such Act (42 U.S.C. 1395w-
12 22(d)(1)) is amended—

13 (i) in subparagraph (D), by striking
14 “and” at the end;

15 (ii) in subparagraph (E), by striking
16 the period at the end and inserting “;
17 and”; and

18 (iii) by adding at the end the fol-
19 lowing new subparagraph:

20 “(F) the plan for prescription drug bene-
21 fits under part D guarantees coverage of any
22 specifically named covered prescription drug for
23 an enrollee, when prescribed by a physician in
24 accordance with the provisions of such part, re-
25 gardless of whether such drug would otherwise

1 be covered under an applicable formulary or
2 discount arrangement.”.

3 (D) PAYMENTS TO ORGANIZATIONS.—Sec-
4 tion 1853(a)(1)(A) of such Act (42 U.S.C.
5 1395w-23(a)(1)(A)) is amended—

6 (i) by inserting “determined sepa-
7 rately for benefits under parts A and B
8 and under part D (for individuals enrolled
9 under that part)” after “as calculated
10 under subsection (c)”;

11 (ii) by striking “that area, adjusted
12 for such risk factors” and inserting “that
13 area. In the case of payment for benefits
14 under parts A and B, such payment shall
15 be adjusted for such risk factors as”; and

16 (iii) by inserting before the last sen-
17 tence the following: “In the case of the
18 payments for benefits under part D, such
19 payment shall initially be adjusted for the
20 risk factors of each enrollee as the Sec-
21 retary determines to be feasible and appro-
22 priate. By 2006, the adjustments would be
23 for the same risk factors applicable for
24 benefits under parts A and B.”.

(E) CALCULATION OF ANNUAL MEDICARE
+CHOICE CAPITATION RATES.—Section 1853(c)
of such Act (42 U.S.C. 1395w-23(c)) is
amended—

(i) in paragraph (1), in the matter
preceding subparagraph (A), by inserting
“for benefits under parts A and B” after
“capitation rate”;

(ii) in paragraph (6)(A), by striking
“rate of growth in expenditures under this
title” and inserting “rate of growth in ex-
penditures for benefits available under
parts A and B”; and

(iii) by adding at the end the fol-
lowing new paragraph:

“(8) PAYMENT FOR PRESCRIPTION DRUGS.—

The Secretary shall determine a capitation rate for
prescription drugs—

“(A) dispensed in 2002, which is based on
the projected national per capita costs for pre-
scription drug benefits under part D and asso-
ciated claims processing costs for beneficiaries
under the original medicare fee-for-service pro-
gram; and

1 “(B) dispensed in each subsequent year,
2 which shall be equal to the rate for the previous
3 year updated by the Secretary’s estimate of the
4 projected per capita rate of growth in expendi-
5 tures under this title for an individual enrolled
6 under part D.”.

7 (F) LIMITATION ON ENROLLEE LIABIL-
8 ITY.—Section 1854(e) of such Act (42 U.S.C.
9 1395w-24(e)) is amended by adding at the end
10 the following new paragraph:

11 “(5) SPECIAL RULE FOR PROVISION OF PART D
12 BENEFITS.—In no event may a Medicare+Choice or-
13 ganization include as part of a plan for prescription
14 drug benefits under part D a requirement that an
15 enrollee pay a deductible, or a coinsurance percent-
16 age that exceeds 50 percent.”.

17 (G) REQUIREMENT FOR ADDITIONAL BEN-
18 EFITS.—Section 1854(f)(1) of such Act (42
19 U.S.C. 1395w-24(f)(1)) is amended by adding
20 at the end the following new sentence: “Such
21 determination shall be made separately for ben-
22 efits under parts A and B and for prescription
23 drug benefits under part D.”.

24 (H) PROTECTIONS AGAINST FRAUD AND
25 BENEFICIARY PROTECTIONS.—Section 1857(d)

1 is amended by adding at the end the following
2 new paragraph:

3 “(6) AVAILABILITY OF NEGOTIATED PRICES.—

4 Each contract under this section shall provide that
5 enrollees who exhaust prescription drug benefits
6 under the plan will continue to have access to pre-
7 scription drugs at negotiated prices equivalent to the
8 total combined cost of such drugs to the plan and
9 the enrollee prior to such exhaustion of benefits.”.

10 (3) EXCLUSIONS FROM COVERAGE.—

11 (A) APPLICATION TO PART D.—Section
12 1862(a) of the Social Security Act (42 U.S.C.
13 1395y(a)) is amended in the matter preceding
14 paragraph (1) by striking “part A or part B”
15 and inserting “part A, B, or D”.

16 (B) PRESCRIPTION DRUGS NOT EXCLUDED
17 FROM COVERAGE IF APPROPRIATELY PRE-
18 SCRIBED.—Section 1862(a)(1) of such Act (42
19 U.S.C. 1395y(a)(1)) is amended—

20 (i) in subparagraph (H), by striking
21 “and” at the end;

22 (ii) in subparagraph (I), by striking
23 the semicolon at the end and inserting “,
24 and”; and

1 (iii) by adding at the end the fol-
 2 lowing new subparagraph:

3 “(J) in the case of prescription drugs cov-
 4 ered under part D, which are not prescribed in
 5 accordance with such part;”.

6 **SEC. 102. MEDICAID BUY-IN OF MEDICARE PRESCRIPTION**
 7 **DRUG COVERAGE FOR CERTAIN LOW-INCOME**
 8 **INDIVIDUALS.**

9 (a) STATE OPTION TO BUY-IN DUALY ELIGIBLE
 10 INDIVIDUALS.—

11 (1) COVERAGE OF PREMIUMS AS MEDICAL AS-
 12 SISTANCE.—Section 1905(a) of the Social Security
 13 Act (42 U.S.C. 1396d) is amended in the second
 14 sentence of the flush matter at the end by striking
 15 “premiums under part B” the first place it appears
 16 and inserting “premiums under parts B and D”.

17 (2) STATE COMMITMENT TO CONTINUE PAR-
 18 TICIPATION IN PART D AFTER BENEFIT LIMIT
 19 REACHED.—Section 1902(a) of such Act (42 U.S.C.
 20 1396a) is amended—

21 (A) by striking “and” at the end of para-
 22 graph (64);

23 (B) by striking the period at the end of
 24 paragraph (65)(B) and inserting “; and”; and

1 (C) by adding at the end the following new
2 paragraph:

3 “(66) provide that in the case of any individual
4 whose eligibility for medical assistance is not limited
5 to medicare or medicare drug cost-sharing and for
6 whom the State elects to pay premiums under part
7 D of title XVIII pursuant to section 1860E, the
8 State will purchase all prescription drugs for such
9 individual in accordance with the provisions of such
10 part D, without regard to whether the benefit limit
11 for such individual under section 1860B(b) has been
12 reached.”.

13 (b) MEDICARE COST-SHARING REQUIRED FOR
14 QUALIFIED MEDICARE BENEFICIARIES.—Section
15 1905(p)(3) of the Social Security Act (42 U.S.C.
16 1396d(p)(3)) is amended—

17 (1) in subparagraph (A)—

18 (A) in clause (i), by striking “and” at the
19 end;

20 (B) in clause (ii), by inserting “and” at
21 the end; and

22 (C) by adding at the end the following new
23 clause:

24 “(iii) premiums under section
25 1860D.”; and

1 (2) in subparagraph (D)—

2 (A) by inserting “(i)” after “(D)”; and

3 (B) by adding at the end the following:

4 “(ii) The difference between the amount
5 that is paid under section 1860B and the
6 amount that would be paid under such section
7 if any reference to ‘50 percent’ therein were
8 deemed a reference to ‘100 percent’ (or, if the
9 Secretary approves a higher percentage under
10 such section, if such percentage were deemed to
11 be 100 percent).”.

12 (c) MEDICARE DRUG COST-SHARING REQUIRED FOR
13 MEDICARE-ELIGIBLE INDIVIDUALS WITH INCOMES BE-
14 TWEEN 100 AND 150 PERCENT OF POVERTY LINE.—

15 (1) DEFINITIONS OF ELIGIBLE BENEFICIARIES
16 AND COVERAGE.—Section 1905 of the Social Secu-
17 rity Act (42 U.S.C. 1396d) is amended by adding at
18 the end the following new subsection:

19 “(x)(1) The term ‘qualified medicare drug bene-
20 ficiary’ means an individual—

21 “(A) who is entitled to hospital insurance bene-
22 fits under part A of title XVIII (including an indi-
23 vidual entitled to such benefits pursuant to an en-
24 rollment under section 1818, but not including an

1 individual entitled to such benefits only pursuant to
2 an enrollment under section 1818A);

3 “(B) whose income (as determined under sec-
4 tion 1612 for purposes of the supplemental security
5 income program, except as provided in subsection
6 (p)(2)(D)) is above 100 percent but below 150 per-
7 cent of the official poverty line (as defined by the
8 Office of Management and Budget, and revised an-
9 nually in accordance with section 673(2) of the Om-
10 nibus Budget Reconciliation Act of 1981) applicable
11 to a family of the size involved; and

12 “(C) whose resources (as determined under sec-
13 tion 1613 for purposes of the supplemental security
14 income program) do not exceed twice the maximum
15 amount of resources that an individual may have
16 and obtain benefits under that program.

17 “(2) The term ‘medicare drug cost-sharing’ means
18 the following costs incurred with respect to a qualified
19 medicare drug beneficiary, without regard to whether the
20 costs incurred were for items and services for which med-
21 ical assistance is otherwise available under the plan:

22 “(A) In the case of a qualified medicare drug
23 beneficiary whose income (as determined under
24 paragraph (1)) is less than 135 percent of the offi-
25 cial poverty line—

1 “(i) premiums under section 1860D; and

2 “(ii) the difference between the amount
3 that is paid under section 1860B and the
4 amount that would be paid under such section
5 if any reference to ‘50 percent’ therein were
6 deemed a reference to ‘100 percent’ (or, if the
7 Secretary approves a higher percentage under
8 such section, if such percentage were deemed to
9 be 100 percent).

10 “(B) In the case of a qualified medicare drug
11 beneficiary whose income (as determined under
12 paragraph (1)) is at least 135 percent but less than
13 150 percent of the official poverty line, a percentage
14 of premiums under section 1860D, determined on a
15 linear sliding scale ranging from 100 percent for in-
16 dividuals with incomes at 135 percent of such line
17 to 0 percent for individuals with incomes at 150 per-
18 cent of such line.

19 “(3) In the case of any State which is providing med-
20 ical assistance to its residents under a waiver granted
21 under section 1115, the Secretary shall require the State
22 to meet the requirement of section 1902(a)(10)(E) in the
23 same manner as the State would be required to meet such
24 requirement if the State had in effect a plan approved
25 under this title.”.

1 (2) STATE PLAN REQUIREMENT.—Section
2 1902(a)(10)(E) of the Social Security Act (42
3 U.S.C. 1396a(a)(10)(E)) is amended—

4 (A) in clause (iii), by striking “and” at the
5 end; and

6 (B) by adding at the end the following new
7 clause:

8 “(v) for making medical assistance avail-
9 able for medicare drug cost-sharing (as defined
10 in section 1905(x)(2)) for qualified medicare
11 drug beneficiaries described in section
12 1905(x)(1); and”.

13 (3) 100 PERCENT FEDERAL MATCHING OF
14 STATE MEDICAL ASSISTANCE COSTS FOR MEDICARE
15 DRUG COST-SHARING.—Section 1903(a) of the Social
16 Security Act (42 U.S.C. 1396b(a)) is amended—

17 (A) by redesignating paragraph (7) as
18 paragraph (8); and

19 (B) by inserting after paragraph (6) the
20 following new paragraph:

21 “(7) except in the case of amounts expended for
22 an individual whose eligibility for medical assistance
23 is not limited to medicare or medicare drug cost-
24 sharing, an amount equal to 100 percent of amounts
25 as expended as medicare drug cost-sharing for quali-

1 fied medicare drug beneficiaries (as defined in sec-
2 tion 1905(x)); plus”.

3 (d) MEDICAID DRUG PRICE REBATES UNAVAILABLE
4 WITH RESPECT TO DRUGS PURCHASED THROUGH MEDI-
5 CARE BUY-IN.—Section 1927 of the Social Security Act
6 (42 U.S.C. 1396r-8) is amended by adding at the end the
7 following new subsection:

8 “(1) DRUGS PURCHASED THROUGH MEDICARE BUY-
9 IN.—The provisions of this section shall not apply to pre-
10 scription drugs purchased under part D of title XVIII pur-
11 suant to an agreement with the Secretary under section
12 1860E (including any drugs so purchased after the limit
13 under section 1860B(b) has been exceeded).”.

14 (e) AMENDMENTS TO MEDICARE PART D.—Part D
15 of title XVIII of the Social Security Act (as added by sec-
16 tion 2) is amended by inserting after section 1860D the
17 following new section:

18 “SPECIAL ELIGIBILITY, ENROLLMENT, AND COPAYMENT
19 RULES FOR LOW-INCOME INDIVIDUALS

20 “SEC. 1860E. (a) STATE AGREEMENTS FOR COV-
21 ERAGE.—

22 “(1) IN GENERAL.—The Secretary shall, at the
23 request of a State, enter into an agreement with the
24 State under which all individuals described in para-
25 graph (2) are enrolled in the program under this
26 part, without regard to whether any such individual

1 has previously declined the opportunity to enroll in
2 such program.

3 “(2) ELIGIBILITY GROUPS.—The individuals de-
4 scribed in this paragraph, for purposes of paragraph
5 (1), are individuals who satisfy section 1860C(a)
6 and who are—

7 “(A)(i) eligible individuals within the
8 meaning of section 1843; and

9 “(ii) in a coverage group or groups per-
10 mitted under section 1843 (as selected by the
11 State and specified in the agreement); or

12 “(B) qualified medicare drug beneficiaries
13 (as defined in section 1905(v)(1)).

14 “(3) COVERAGE PERIOD.—The period of cov-
15 erage under this part of an individual enrolled under
16 an agreement under this subsection shall be as fol-
17 lows:

18 “(A) INDIVIDUALS ELIGIBLE (AT STATE
19 OPTION) FOR PART B BUY-IN.—In the case of
20 an individual described in subsection (a)(2)(A),
21 the coverage period shall be the same period
22 that applies (or would apply) pursuant to sec-
23 tion 1843(d).

1 “(B) QUALIFIED MEDICARE DRUG BENE-
 2 FICIARIES.—In the case of an individual de-
 3 scribed in subsection (a)(2)(B)—

4 “(i) the coverage period shall begin on
 5 the latest of—

6 “(I) January 1, 2002;

7 “(II) the first day of the third
 8 month following the month in which
 9 the State agreement is entered into;
 10 or

11 “(III) the first day of the first
 12 month following the month in which
 13 the individual satisfies section
 14 1860C(a); and

15 “(ii) the coverage period shall end on
 16 the last day of the month in which the in-
 17 dividual is determined by the State to have
 18 become ineligible for medicare drug cost-
 19 sharing.

20 “(b) SPECIAL PART D ENROLLMENT OPPORTUNITY
 21 FOR INDIVIDUALS LOSING MEDICAID ELIGIBILITY.—In
 22 the case of an individual who—

23 “(1) satisfies section 1860C(a); and

24 “(2) loses eligibility for benefits under the State
 25 plan under title XIX after having been enrolled

1 under such plan or having been determined eligible
2 for such benefits;

3 the Secretary shall provide an opportunity for enrollment
4 under the program under this part during the period that
5 begins on the date that such individual loses such eligi-
6 bility and ends on the date specified by the Secretary.

7 “(c) DEFINITION.—For purposes of this section, the
8 term ‘State’ has the meaning given such term under sec-
9 tion 1101(a) for purposes of title XIX.”.

10 (f) REMOVAL OF SUNSET DATE FOR COST-SHARING
11 IN MEDICARE PART B PREMIUMS FOR CERTAIN QUALI-
12 FYING INDIVIDUALS.—

13 (1) IN GENERAL.—Section 1902(a)(10)(E)(iv)
14 of the Social Security Act (42 U.S.C.
15 1396a(a)(10)(E)(iv)) is amended to read as follows—

16 “(iv) subject to section 1905(p)(4),
17 for making medical assistance available for
18 medicare cost-sharing described in section
19 1905(p)(3)(A)(ii) for individuals who
20 would be qualified medicare beneficiaries
21 described in section 1905(p)(1) but for the
22 fact that their income exceeds the income
23 level established by the State under section
24 1905(p)(2) and is at least 120 percent, but
25 less than 135 percent, of the official pov-

1 erty line (referred to in such section) for a
2 family of the size involved and who are not
3 otherwise eligible for medical assistance
4 under the State plan;”.

5 (2) RELOCATION OF PROVISION REQUIRING 100
6 PERCENT FEDERAL MATCHING OF STATE MEDICAL
7 ASSISTANCE COSTS FOR CERTAIN QUALIFYING INDIVIDUALS.—Section 1903(a) of the Social Security
8 Act (42 U.S.C. 1396b(a)), as amended by subsection
9 (c)(3), is amended—
10 (c)(3), is amended—

11 (A) by redesignating paragraph (8) as
12 paragraph (9); and

13 (B) by inserting after paragraph (7) the
14 following new paragraph:

15 “(8) an amount equal to 100 percent of
16 amounts as expended as medicare drug cost-sharing
17 for individuals described in section
18 1903(a)(10)(E)(iv); plus”.

19 (3) REPEAL OF SECTION 1933.—Section 1933 is
20 repealed.

21 (4) EFFECTIVE DATE.—The amendments made
22 by this subsection shall take effect on January 1,
23 2002.

1 **SEC. 103. CATASTROPHIC PRESCRIPTION DRUG COVERAGE**
2 **BENEFIT.**

3 (a) RECOMMENDATIONS WITH RESPECT TO A MEDI-
4 CARE CATASTROPHIC DRUG BENEFIT.—

5 (1) IN GENERAL.—Not later than 6 months
6 after the date of enactment of this Act, the Sec-
7 retary of Health and Human Services (in this sec-
8 tion referred to as the “Secretary”) shall submit to
9 the Committee on Finance of the Senate and the
10 Committee on Ways and Means and the Committee
11 on Commerce of the House of Representatives de-
12 tailed recommendations on structuring a cata-
13 strophic drug benefit for medicare beneficiaries.

14 (2) RECOMMENDATIONS DESCRIBED.—The rec-
15 ommendations under paragraph (1) shall—

16 (A) ensure coverage of the costs of pre-
17 scription drugs above a specified level of out-of-
18 pocket expenditures;

19 (B) conform to the administrative struc-
20 ture established in this Act;

21 (C) have a projected cost that does not ex-
22 ceed the amounts described in subsection
23 (b)(3)(A); and

24 (D) take effect no later than January 1,
25 2003.

26 (3) FINAL REGULATIONS.—

1 (A) IN GENERAL.—If legislation of a medi-
2 care catastrophic drug benefit is not enacted
3 that meets the requirements of paragraph (2)
4 by June 1, 2001, the Secretary of Health and
5 Human Services shall promulgate final regula-
6 tions containing such standards no later than
7 January 1, 2002.

8 (B) CERTIFICATION BY OMB AND HCFA.—
9 A final regulation promulgated by the Secretary
10 under subparagraph (A) shall not take effect
11 unless the Director of the Office of Manage-
12 ment and Budget and the Chief Actuary of the
13 Health Care Financing Administration certify
14 that aggregate Federal expenses incurred in
15 providing the catastrophic drug benefit under
16 this section will not exceed \$50,000,000,000 be-
17 tween fiscal years 2003 and 2010. If either cer-
18 tification is not provided, the Secretary shall
19 submit a revised recommendation on struc-
20 turing a catastrophic drug benefit to the appro-
21 priate committees of Congress under paragraph
22 (1) no later than 30 days after the Secretary
23 receives a notification that such certification
24 will not be provided.

1 (b) CATASTROPHIC PRESCRIPTION DRUG COVERAGE
2 RESERVE FUND.—

3 (1) ESTABLISHMENT OF RESERVE FUND.—

4 There is established a reserve fund which shall be
5 known as the “Catastrophic Prescription Drug Cov-
6 erage Reserve Fund” (in this subsection referred to
7 as the “Reserve Fund”).

8 (2) AMOUNTS IN RESERVE FUND.—Subject to
9 subparagraph (B), the Reserve Fund shall consist of
10 such amounts as are appropriated to the Reserve
11 Fund under paragraph (3).

12 (3) APPROPRIATION TO RESERVE FUND.—

13 (A) IN GENERAL.—

14 (i) FISCAL YEARS 2003 THROUGH
15 2010.—There are appropriated to the Re-
16 serve Fund for the period beginning with
17 fiscal year 2003 and ending with fiscal
18 year 2010, \$50,000,000,000.

19 (ii) SUBSEQUENT FISCAL YEARS.—

20 There are authorized to be appropriated to
21 the Reserve Fund for each subsequent fis-
22 cal year, such sums as may be necessary to
23 carry out the provisions of this section.

24 (B) AVAILABILITY.—Sums appropriated
25 under subparagraph (A)(i) shall remain avail-

1 able, without fiscal year limitation, until ex-
2 pended.

3 **SEC. 104. COMPREHENSIVE IMMUNOSUPPRESSIVE DRUG**
4 **COVERAGE FOR TRANSPLANT PATIENTS.**

5 (a) REVISION OF MEDICARE COVERAGE FOR IM-
6 MUNOSUPPRESSIVE DRUGS.—

7 (1) IN GENERAL.—Section 1861(s)(2)(J) of the
8 Social Security Act (42 U.S.C. 1395x(s)(2)(J)) (as
9 amended by section 227(a) of the Medicare, Med-
10 icaid, and SCHIP Balanced Budget Refinement Act
11 of 1999 (113 Stat. 1501A–354), as enacted into law
12 by section 1000(a)(6) of Public Law 106–113) is
13 amended by striking “, to an individual who re-
14 ceives” and all that follows before the semicolon at
15 the end and inserting “to an individual who has re-
16 ceived an organ transplant”.

17 (2) CONFORMING AMENDMENTS.—

18 (A) Section 1832 of the Social Security
19 Act (42 U.S.C. 1395k) (as amended by section
20 227(b) of the Medicare, Medicaid, and SCHIP
21 Balanced Budget Refinement Act of 1999 (113
22 Stat. 1501A–354), as enacted into law by sec-
23 tion 1000(a)(6) of Public Law 106–113) is
24 amended—

25 (i) by striking subsection (b); and

1 (ii) by redesignating subsection (c) as
 2 subsection (b).

3 (B) Subsections (c) and (d) of section 227
 4 of the Medicare, Medicaid, and SCHIP Bal-
 5 anced Budget Refinement Act of 1999 (113
 6 Stat. 1501A–355), as enacted into law by sec-
 7 tion 1000(a)(6) of Public Law 106–113, are re-
 8 pealed.

9 (3) EFFECTIVE DATE.—The amendments made
 10 by this subsection shall apply to drugs furnished on
 11 or after the date of enactment of this Act.

12 (b) EXTENSION OF CERTAIN SECONDARY PAYER RE-
 13 QUIREMENTS.—Section 1862(b)(1)(C) of the Social Secu-
 14 rity Act (42 U.S.C. 1395y(b)(1)(C)) is amended by adding
 15 at the end the following: “With regard to immuno-
 16 suppressive drugs furnished on or after the date of enact-
 17 ment of the Medicare Expansion for Needed Drugs
 18 (MEND) Act of 2000, this subparagraph shall be applied
 19 without regard to any time limitation.”.

20 **SEC. 105. GAO STUDY AND BIENNIAL REPORTS ON COM-**
 21 **PETITION AND SAVINGS.**

22 (a) ONGOING STUDY.—The Comptroller General of
 23 the United States shall conduct an ongoing study and
 24 analysis of the prescription drug benefit program under
 25 part D of the medicare program under title XVIII of the

1 Social Security Act (as added by this title), including an
2 analysis of—

3 (1) the extent to which the competitive bidding
4 process under such program fosters maximum com-
5 petition and efficiency; and

6 (2) the savings to the medicare program result-
7 ing from such prescription drug benefit program, in-
8 cluding the reduction in the number or length of
9 hospital visits.

10 (b) INITIAL REPORT.—Not later than September 1,
11 2001, the Comptroller General shall submit to Congress
12 a report on the extent to which the competitive bidding
13 process under the prescription drug benefit program under
14 part D of the medicare program under title XVIII of the
15 Social Security Act (as added by this title) is expected to
16 foster maximum competition and efficiency.

17 (c) BIENNIAL REPORTS.—Not later than January 1,
18 2004, and biennially thereafter, the Comptroller General
19 of the United States shall submit to Congress a report
20 on the results of the study conducted under this section,
21 together with any recommendations for legislation that the
22 Comptroller General determines to be appropriate as a re-
23 sult of such study.

1 **SEC. 106. MEDPAC STUDY AND ANNUAL REPORTS ON THE**
2 **PHARMACEUTICAL MARKET, PHARMACIES,**
3 **AND BENEFICIARY ACCESS.**

4 (a) ONGOING STUDY.—The Medicare Payment Advi-
5 sory Commission established under section 1805 of the So-
6 cial Security Act (42 U.S.C. 1395b–6) shall conduct an
7 ongoing study and analysis of the prescription drug ben-
8 efit program under part D of the Social Security Act (as
9 added by this title), including an analysis of the impact
10 of the prescription drug benefit program on—

11 (1) the pharmaceutical market, including costs
12 and pricing of pharmaceuticals, beneficiary access to
13 such pharmaceuticals, and trends in research and
14 development;

15 (2) franchise, independent, and rural phar-
16 macies; and

17 (3) beneficiary access to prescription drugs, in-
18 cluding an assessment of—

19 (A) out-of-pocket spending;

20 (B) generic and brand-name utilization;

21 and

22 (C) pharmacists' services.

23 (b) REPORT.—Not later than January 1, 2004, and
24 annually thereafter, the Medicare Payment Advisory Com-
25 mission shall submit to Congress a report on the results
26 of the study conducted under this section, together with

1 any recommendations for legislation that such Commis-
 2 sion determines to be appropriate as a result of such
 3 study.

4 **TITLE II—ENHANCED MEDICARE** 5 **PREVENTION PROGRAM**

6 **SEC. 201. MEDPAC BIENNIAL REPORT.**

7 (a) IN GENERAL.—Section 1805(b) of the Social Se-
 8 curity Act (42 U.S.C. 1395b–6(b)) is amended—

9 (1) in paragraph (1)—

10 (A) in subparagraph (C), by striking
 11 “and” at the end;

12 (B) in subparagraph (D), by striking the
 13 period and inserting “; and”; and

14 (C) by adding at the end the following new
 15 subparagraph:

16 “(E) by not later than January 1, 2002,
 17 and biennially thereafter, submit the report to
 18 Congress described in paragraph (7).”; and

19 (2) by adding at the end the following new
 20 paragraph:

21 “(7) EVALUATION OF ACTUARIAL EQUIVALENCE
 22 OF MEDICARE AND PRIVATE SECTOR BENEFIT PACK-
 23 AGES.—

24 “(A) EVALUATION.—The Commission
 25 shall—

1 “(i) evaluate the benefit package of-
2 ferred under the medicare program under
3 this title; and

4 “(ii) determine the degree to which
5 such benefit package is actuarially equiva-
6 lent to that offered by health benefit pro-
7 grams available in the private sector to in-
8 dividuals over age 65.

9 “(B) REPORT.—The Commission shall
10 submit a report to Congress that shall
11 contain—

12 “(i) a detailed statement of the find-
13 ings and conclusions of the Commission re-
14 garding the evaluation conducted under
15 subparagraph (A);

16 “(ii) the recommendations of the
17 Commission regarding changes in the ben-
18 efit package offered under the medicare
19 program under this title that would keep
20 the program modern and competitive in re-
21 lation to health benefit programs available
22 in the private sector; and

23 “(iii) the recommendations of the
24 Commission for such legislation and ad-

1 ministrative actions as it considers appro-
2 priate.”.

3 (b) EFFECTIVE DATE.—The amendments made by
4 this section shall take effect on the date of enactment of
5 this Act.

6 **SEC. 202. NATIONAL INSTITUTE ON AGING STUDY AND RE-**
7 **PORT.**

8 (a) STUDIES.—The Director of the National Institute
9 on Aging shall conduct 1 or more studies focusing on ways
10 to—

11 (1) improve quality of life for the elderly;

12 (2) develop better ways to prevent or delay the
13 onset of age-related functional decline and disease
14 and disability among the elderly; and

15 (3) develop means of assessing the long-term
16 development of cost-effective benefits and cost-sav-
17 ings benefits for health promotion and disease pre-
18 vention among the elderly.

19 (b) REPORT.—Not later than January 1, 2006, the
20 Director of the National Institute on Aging shall submit
21 a report to the Secretary regarding each study conducted
22 under subsection (a) and containing a detailed statement
23 of research findings and conclusions that are scientifically
24 valid and are demonstrated to prevent or delay the onset
25 of chronic illness or disability among the elderly.

1 (c) TRANSMISSION TO INSTITUTE OF MEDICINE.—

2 Upon receipt of each report described in subsection (b),
 3 the Secretary shall transmit such report to the Institute
 4 of Medicine of the National Academy of Sciences for con-
 5 sideration in its effort to conduct the comprehensive study
 6 of current literature and best practices in the field of
 7 health promotion and disease prevention among the medi-
 8 care beneficiaries described in section 204.

9 (d) AUTHORIZATION OF APPROPRIATIONS.—

10 (1) IN GENERAL.—There are authorized to be
 11 appropriated \$100,000,000 for fiscal years 2001
 12 through 2006 to carry out the purposes of this sec-
 13 tion.

14 (2) AVAILABILITY.—Any sums appropriated
 15 under the authorization contained in this subsection
 16 shall remain available, without fiscal year limitation,
 17 until September 30, 2005.

18 **SEC. 203. INSTITUTE OF MEDICINE 5-YEAR MEDICARE PRE-**
 19 **VENTION BENEFIT STUDY AND REPORT.**

20 (a) STUDY.—

21 (1) IN GENERAL.—The Secretary shall contract
 22 with the Institute of Medicine of the National Acad-
 23 emy of Sciences to conduct a comprehensive study of
 24 current literature and best practices in the field of
 25 health promotion and disease prevention among

1 medicare beneficiaries including the issues described
2 in paragraph (2) and to submit the report described
3 in subsection (b).

4 (2) ISSUES STUDIED.—The study required
5 under paragraph (1) shall include an assessment
6 of—

7 (A) whether each covered benefit is—

8 (i) medically effective; and

9 (ii) a cost-effective benefit or a cost-
10 saving benefit;

11 (B) utilization of covered benefits (includ-
12 ing any barriers to or incentives to increase uti-
13 lization); and

14 (C) quality of life issues associated with
15 both health promotion and disease prevention
16 benefits covered under the medicare program
17 and those that are not covered under such pro-
18 gram that would affect all medicare bene-
19 ficiaries.

20 (b) REPORT.—

21 (1) IN GENERAL.—Not later than 5 years after
22 the date of enactment of this section, and every fifth
23 year thereafter, the Institute of Medicine of the Na-
24 tional Academy of Sciences shall submit to the
25 President a report that contains a detailed state-

1 ment of the findings and conclusions of the study
2 conducted under subsection (a) and the rec-
3 ommendations for legislation described in paragraph
4 (2).

5 (2) RECOMMENDATIONS FOR LEGISLATION.—

6 The Institute of Medicine of the National Academy
7 of Sciences, in consultation with the Partnership for
8 Prevention, shall develop recommendations in legis-
9 lative form that—

10 (A) prioritize the preventive benefits under
11 the medicare program; and

12 (B) modify preventive benefits offered
13 under the medicare program based on the study
14 conducted under subsection (a).

15 (c) TRANSMISSION TO CONGRESS.—

16 (1) IN GENERAL.—On the day on which the re-
17 port described in subsection (b) is submitted to the
18 President, the President shall transmit the report
19 and recommendations in legislative form described in
20 subsection (b)(2) to Congress.

21 (2) DELIVERY.—Copies of the report and rec-
22 ommendations in legislative form required to be
23 transmitted to Congress under paragraph (1) shall
24 be delivered—

1 (A) to both Houses of Congress on the
2 same day;

3 (B) to the Clerk of the House of Rep-
4 resentatives if the House of Representatives is
5 not in session; and

6 (C) to the Secretary of the Senate if the
7 Senate is not in session.

8 **SEC. 204. FAST-TRACK CONSIDERATION OF PREVENTION**
9 **BENEFIT LEGISLATION.**

10 (a) RULES OF HOUSE OF REPRESENTATIVES AND
11 SENATE.—This section is enacted by Congress—

12 (1) as an exercise of the rulemaking power of
13 the House of Representatives and the Senate, re-
14 spectively, and is deemed a part of the rules of each
15 House of Congress, but—

16 (A) is applicable only with respect to the
17 procedure to be followed in that House of Con-
18 gress in the case of an implementing bill (as de-
19 fined in subsection (d)); and

20 (B) supersedes other rules only to the ex-
21 tent that such rules are inconsistent with this
22 section; and

23 (2) with full recognition of the constitutional
24 right of either House of Congress to change the
25 rules (so far as relating to the procedure of that

House of Congress) at any time, in the same manner and to the same extent as in the case of any other rule of that House of Congress.

(b) INTRODUCTION AND REFERRAL.—

(1) INTRODUCTION.—

(A) IN GENERAL.—Subject to paragraph (2), on the day on which the President transmits the report pursuant to section 203(c) to the House of Representatives and the Senate, the recommendations in legislative form transmitted by the President with respect to such report shall be introduced as a bill (by request) in the following manner:

(i) HOUSE OF REPRESENTATIVES.—In the House of Representatives, by the Majority Leader, for himself and the Minority Leader, or by Members of the House of Representatives designated by the Majority Leader and Minority Leader.

(ii) SENATE.—In the Senate, by the Majority Leader, for himself and the Minority Leader, or by Members of the Senate designated by the Majority Leader and Minority Leader.

1 (B) SPECIAL RULE.—If either House of
2 Congress is not in session on the day on which
3 such recommendations in legislative form are
4 transmitted, the recommendations in legislative
5 form shall be introduced as a bill in that House
6 of Congress, as provided in subparagraph (A),
7 on the first day thereafter on which that House
8 of Congress is in session.

9 (2) REFERRAL.—Such bills shall be referred by
10 the presiding officers of the respective Houses to the
11 appropriate committee, or, in the case of a bill con-
12 taining provisions within the jurisdiction of 2 or
13 more committees, jointly to such committees for con-
14 sideration of those provisions within their respective
15 jurisdictions.

16 (c) CONSIDERATION.—After the recommendations in
17 legislative form have been introduced as a bill and referred
18 under subsection (b), such implementing bill shall be con-
19 sidered in the same manner as an implementing bill is con-
20 sidered under subsections (d), (e), (f), and (g) of section
21 151 of the Trade Act of 1974 (19 U.S.C. 2191).

22 (d) IMPLEMENTING BILL DEFINED.—In this section,
23 the term “implementing bill” means only the recommenda-
24 tions in legislative form of the Institute of Medicine of the
25 National Academy of Sciences described in section

1 203(b)(2), transmitted by the President to the House of
2 Representatives and the Senate under section 203(c), and
3 introduced and referred as provided in subsection (b) as
4 a bill of either House of Congress.

5 (e) COUNTING OF DAYS.—For purposes of this sec-
6 tion, any period of days referred to in section 151 of the
7 Trade Act of 1974 shall be computed by excluding—

8 (1) the days on which either House of Congress
9 is not in session because of an adjournment of more
10 than 3 days to a day certain or an adjournment of
11 Congress sine die; and

12 (2) any Saturday and Sunday, not excluded
13 under paragraph (1), when either House is not in
14 session.

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Calendar No. 609

106TH CONGRESS
2D SESSION
S. 2753

A BILL

To amend title XVIII of the Social Security Act to provide a prescription drug benefit for the aged and disabled under the medicare program, to enhance the preventive benefits covered under such program, and for other purposes.

JUNE 19, 2000

Read twice and ordered placed on the calendar

